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Committee on the Elimination of Discrimination against Women
Sixty-ninth session

Summary record of the 1572nd meeting*
Held at the Palais des Nations, Geneva, on Tuesday, 20 February 2018, at 10 a.m.

Chair: Ms. Leinarte

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* No summary record was issued for the 1571st meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention (continued)

Combined third to fifth periodic reports of Malaysia (CEDAW/C/MYS/3-5; CEDAW/C/MYS/Q/3-5 and CEDAW/C/MYS/Q/3-5/Add.1)

1. *At the invitation of the Chair, the delegation of Malaysia took places at the Committee table.*

2. **Ms. Ahmad** (Malaysia), introducing her country's combined third to fifth periodic reports, said that the Government of Malaysia was committed to realizing gender equality and, to that end, remained open to learning from and adopting the best practices of other countries. The Government recognized that the advancement and empowerment of women served a range of broader objectives. Measures to promote and protect women's rights had been included in several of the previous multi-year Malaysia Plans and continued to be prioritized.

3. The Government would continue to ensure that women held at least 30 per cent of managerial and decision-making positions in both the public and private sectors. Under the Eleventh Malaysia Plan (2016–2020), the target set for female participation in the workforce was 59 per cent by 2020. Female participation in the workforce had increased from 48 per cent in 2011 to around 54 per cent in 2016. The Government encouraged corporate leaders to implement flexible working arrangements to facilitate the participation in the workforce of women from the middle-income group, and various other programmes were being implemented to support the participation of women from other income groups. Although significant progress had been achieved in terms of increasing the number of women in top management positions in the public sector, the representation of women in decision-making positions in the private sector remained comparatively low. The Eleventh Malaysia Plan also provided for measures to improve the collection of data disaggregated by gender.

4. Since 1995, Malaysia had been making progress on gender equality and non-discrimination through the introduction and implementation of new legislation. For example, the Domestic Violence (Amendment) Act 2017, which had entered into force on 1 January 2018, had strengthened the protection afforded to victims of domestic violence, and the Legal Aid (Amendment) Act 2017, which had entered into force on 1 December 2017, was expected to streamline the procedure by which legal aid was granted to persons on low incomes. In 2017, the Law Reform (Marriage and Divorce) Act 1976 had been amended to address various issues arising from the conversion to Islam of one of the parties to a marriage. Under the new law, spouses who had converted to Islam now also enjoyed the right to file a petition for divorce. In addition, the Government was considering the possibility of drafting a bill on gender equality and a bill on sexual harassment.

5. As had been reaffirmed in the Malaysia Education Blueprint, Malaysia sought to ensure universal access to education and the full enrolment of all children. Gender parity had been achieved in terms of enrolment and completion rates and the transition from the primary to the secondary levels. Female students had a slight advantage over their male counterparts in secondary and tertiary education. The Government had invested heavily in education as part of a wider effort to achieve developed country status by 2020. In 2016, the literacy rate was 97.2 per cent for men and 96.3 per cent for women.

6. In 2017, life expectancy at birth had been 72.7 years for men and 77.4 for women. The maternal mortality ratio had fallen from more than 40 per 100,000 live births in 1991 to 29.1 per 100,000 in 2016. Contraceptive devices and sexual and reproductive health services were widely available, and measures had been taken to guarantee access to health care for all women, including female prisoners.

7. In January 2018, in line with an announcement made by the Prime Minister the previous year, the names of all publicly listed companies that had no female directors had been published. Only 7 of the top 100 companies had yet to name a female director. Between 2012 and 2016, the number of Malaysian women in the Malaysian Foreign

Service had increased by 9.5 per cent. In 2016, 73 Malaysian women had participated in the work of international organizations.

8. Women currently held 24 of the 222 seats in the House of Representatives and 12 of the 70 seats in the Senate. At the Women in Politics conference held in Kuala Lumpur in 2017, the Prime Minister had announced a minimum quota of 30 per cent for female representation in the Senate.

9. For Malaysia, the task of consolidating and streamlining the efforts made by various ministries and agencies to eliminate discrimination against women had been identified as a major priority. The country planned to adopt a more proactive role in detecting, monitoring and eliminating discrimination against women in the public and private sectors. Through the Ministry of Women, Family and Community Development, the Government had collaborated with the United Nations Development Programme (UNDP) on a project to promote the inclusion of women in the implementation of the Eleventh Malaysia Plan with a view to ensuring that gender equality and female empowerment were incorporated into national development policymaking. In addition, 2018 had been declared the Empowerment of Women Year with a view to improving the situation of women in Malaysia.

Articles 1 to 6

10. **Ms. Schulz** said that it was the Committee's hope that, in future, the State party would manage to submit its periodic reports more regularly and in a timelier manner. Many of the recommendations made in the Committee's concluding observations on the combined initial and second periodic reports of Malaysia (CEDAW/C/MYS/CO/2) and accepted as part of the universal periodic review process in 2009 and 2014 had not yet been implemented.

11. It was unclear what steps had been taken towards the ratification of the Optional Protocol to the Convention, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and whether time frames had been set for taking action. She would appreciate an update on the progress made towards the withdrawal of the State party's reservations to article 9 (2) and parts of article 16 of the Convention. It would be helpful to learn whether the State party had taken steps to honour its commitment to adopt a comprehensive bill on gender equality in order to incorporate into national law the definition of discrimination set out in article 1 of the Convention, including the explicit prohibition against discrimination by non-State actors, and whether a time frame had been set for that process. Were there plans to adopt further federal laws to facilitate the incorporation of the Convention into national law?

12. In view of the growing discrepancy between Muslim and non-Muslim women in terms of protection from discrimination, she wished to know how the State party planned to mitigate the discriminatory effect of article 8 (5) (a) of the Constitution, which established that provisions regulating personal law were not invalidated or prohibited by the anti-discrimination principle set out in article 8 (2). In that connection, she wondered what measures had been taken to ensure the peaceful coexistence of different religious and ethnic groups. Moreover, in the light of reports of threats, intimidation, attacks and reprisals by State and non-State actors against women's human rights defenders and activists and women's NGOs, it would be instructive to discover what measures had been taken to protect women and the civic space more generally in order to facilitate a peaceful public debate.

13. It seemed unlikely that lesbian, bisexual and transgender women would report acts of discrimination to the authorities, as had been suggested as a possible avenue of redress in the State party's replies to the list of issues (CEDAW/C/MYS/Q/3-5/Add.1, para. 63), given that certain homosexual acts constituted offences under article 377 of the Penal Code and State sharia laws. Transgender women seemed to be affected particularly severely. In that connection, she would be grateful for statistics on the application of article 377 of the Penal Code and on the submission of complaints by lesbian, bisexual and transgender women for discrimination. She wondered whether there were plans to initiate a dialogue with relevant organizations and other stakeholders, such as the Human Rights Commission of Malaysia, with a view to reviewing and repealing the legislative provisions in question

and whether there were plans to halt the implementation of the 2017–2021 action plan to address social ills, which aimed to correct and rehabilitate lesbian, bisexual and transgender persons, and of all other measures that discriminated against such persons.

14. **Mr. Bin Zainal Abidin** (Malaysia) said that, as Malaysia was a dualist State, international instruments such as the Optional Protocol to the Convention could not be adopted until a thorough consultation process involving all stakeholders and agencies had been conducted. Women who considered that their rights under article 15 of the Convention had been violated had access to a range of avenues of redress. Women and men were equal in terms of their rights before the law, legal capacity and access to legal services.

15. **Ms. Ahmad** (Malaysia) said that the bills on gender equality and sexual harassment were at the preparatory stage. The time frame for the adoption of the bill on gender equality would depend on the progress of the consultation process that would have to be conducted with all stakeholders and relevant ministries. Her Government would be looking at the experiences of other countries with a view to identifying best practices. Lesbian, gay, bisexual and transgender persons were treated on an equal basis with other persons, and the Government was open to the suggestion of initiating a dialogue with that community.

16. **Ms. Schulz** said that, if women enjoyed complete equality, as the delegation had claimed, there should be no obstacles to the ratification of the Optional Protocol to the Convention. She appreciated the importance of conducting a thorough consultation process prior to the ratification of the Optional Protocol, but it seemed that a process of that kind had been under way since 2006. For that reason, she wondered whether the process could be accelerated.

17. It was unclear how it could be claimed that lesbian, bisexual and transgender women were treated on an equal basis with other persons if, as was the case, certain homosexual acts constituted criminal offences.

18. **Ms. Halperin-Kaddari** said that she would appreciate clarification of a fatwa that had been issued against a Muslim women's rights group, declaring the group to be deviant because of its advocacy of religious pluralism. She failed to understand how such a fatwa, a ruling that was legally binding once it was published in an official gazette, could be regarded as compatible with the State's obligation to guarantee a peaceful and pluralistic public sphere and to protect human rights defenders.

19. **Ms. Haidar** said that progress towards gender equality could be jeopardized by the unequal pace of development for Muslims as compared with non-Muslims. In Lebanon, such discrepancies had led to civil war. She wondered what measures were planned to harmonize development. She welcomed the State party's examination of best practices in other countries and the references made to the Sustainable Development Goals and encouraged a similar approach to the issue of women's rights.

20. **Ms. Ahmad** (Malaysia) said that, although the Government was working towards ratifying the Optional Protocol to the Convention, it needed more time to consult all relevant stakeholders, including ministries. She also took note of the comments made by members of the Committee regarding enhanced engagement with non-governmental organizations.

21. **Mr. Bin Zainal Abidin** (Malaysia) said that the non-governmental organization in question, Sisters in Islam, had filed an application in 2014 for a judicial review of the fatwa issued against it. As the case was still pending, it would be inappropriate to comment on the matter. However, the Government would abide by the court's decision; indeed, it was hoped that all the parties concerned would do likewise.

22. **Ms. Ahmad** (Malaysia) said that, during the course of 2018, it was hoped that all ministries would contribute to efforts to ensure an equal pace of development for all, in order to make sure that no woman was left behind.

23. **Ms. Schulz**, returning to the issue of fatwas, said that she would be interested to know whether measures had been taken, or were planned, to ensure that constitutional matters were handled exclusively by the civil courts.

24. **Mr. Bin Yeop Johari** (Malaysia) said that fatwas published in the *Gazette* were aimed at addressing controversial or unresolved questions relating to Islamic law; they were legally binding on Muslims but had no such power over non-Muslims. Fatwas fell outside of the remit of the civil justice system: they dealt exclusively with matters pertaining to Islamic law.

25. **Ms. Rana** said that timely reporting was an important aspect of States parties' obligations under the Convention, and she urged the Government to ensure that future reports were submitted on time. She also encouraged the State party to withdraw its reservations to the Convention and to accede to the Optional Protocol.

26. Turning to the issue of the proposed gender equality act, she wished to know whether a definite time frame existed for its adoption. It would also be useful to know when the Government planned to review the National Policy on Women and National Action Plan for the Advancement of Women and the methods and statistical measures to be used for that purpose. Likewise, information would be welcome on action planned at the institutional level to increase the awareness and capacity of staff to implement gender mainstreaming measures and to develop a comprehensive, centralized system to monitor and report on progress relating to the Sustainable Development Goals. Further details of existing mechanisms and policies to strengthen the Human Rights Commission of Malaysia in accordance with the Paris Principles and measures to implement, monitor and evaluate gender responsive budgeting would also be useful.

27. The fact that, under the Ministry of Women, Family and Community Development, women's interests were grouped together with those of children, families and communities reinforced patriarchal attitudes and was incompatible with the Committee's principles. It would be useful to know what short-term solutions and long-term measures the Government proposed to implement to address that problem. The State party was also invited to describe to what extent measures to document human rights abuses and protect the rights of people of diverse sexual orientations and gender identities had been incorporated into its national human rights action plan.

28. **Ms. Narain** said that she wished to welcome the State party's acknowledgement that further measures were required in certain areas and its efforts to promote gender equality, including through naming publicly listed companies with no women on their boards of directors. She also welcomed the programme to prepare women for roles as company directors and wished to know how many of the women trained had subsequently been appointed to such posts. It would be useful to know what temporary special measures were planned to encourage private sector companies to appoint women as directors and senior executives, including through the use of incentives.

29. Given the low level of women's participation in Parliament, she wondered whether the Government had considered the introduction of voluntary or mandatory quotas, or reserved seats. In that connection, was the minimum quota for women senators proposed by the Prime Minister likely to be introduced by legislative or constitutional means, and what time frame was envisaged for its implementation?

30. **Ms. Ahmad** (Malaysia) said that it was generally perceived that gender mainstreaming was solely the responsibility of the Ministry of Women, Family and Community Development. Existing gender mainstreaming mechanisms were ineffective owing to a lack of commitment and understanding of the concept. Moreover, there was a lack of adequate training and monitoring. The Ministry was currently working with the UNDP to review and strengthen the implementation of the National Policy on Women and the National Action Plan for the Advancement of Women. Expected outputs related to areas such as capacity-building and gender-sensitive budgeting; an initial report was expected by the middle of 2018.

31. With regard to the gender equality bill, the usual time frame for the adoption of new legislation was between 12 and 24 months. However, it was hoped that the process could be expedited given that 2018 was the Empowerment of Women Year.

32. Statistics on the women directors programme would be provided at a later date, as would information on temporary measures to promote the appointment of women to

company boards in the private sector. A range of incentives had already been introduced in that sector to encourage the recruitment and promotion of women, including tax incentives for employers recruiting women returning to the workforce, the extension of maternity leave to 90 days, flexible working arrangements and measures to ensure quality childcare at the workplace.

33. As far as mandatory election quotas were concerned, Malaysia had a democratic system whereby representatives were elected by the constituents. However, the Prime Minister had had made a personal commitment to enhance women's representation in the Senate. The forthcoming elections would provide an opportunity for change.

34. **Ms. Rana**, noting the active peacekeeping role and support for Arms Trade Treaty of Malaysia, asked what action the Government had taken towards its ratification. She would also be interested to know whether the State party was considering developing a national action plan for the implementation of Security Council resolution 1325 (2000) on women and peace and security and whether capacity-building measures were planned in the areas of protection and conflict prevention.

35. **Ms. Narain** asked whether the Government was considering amending the law to introduce statutory quotas or reserved seats, in order to enhance the participation of women, including those from ethnic minorities and indigenous groups.

36. **Ms. Schulz** said that, in addition to providing useful information to ministries and other bodies, gender-disaggregated data also helped to foster public debate. She would be interested to know whether the Government was considering repealing the Official Secrets Act 1972 and taking measures to guarantee freedom of information. Moreover, she would welcome information on the resources of the Human Rights Commission of Malaysia and entities responsible for providing legal aid.

37. **Ms. Ahmad** (Malaysia) said that additional information on peacekeeping activities, the ratification of the Arms Trade Treaty and the introduction of statutory quotas would be provided at a later date, following consultations with the relevant government bodies.

38. **Mr. Mohamed Zin** (Malaysia) said that the Government's support for the Arms Trade Treaty reflected its commitment to disarmament. Consultations on the ratification of the Treaty were currently under way, involving a range of stakeholders. It was hoped that the instrument would be ratified once the Government was in a position to comply with all the obligations under the Treaty. Preparatory measures were currently being taken to that end.

39. **Ms. Ahmad** (Malaysia) said that, as part of reform of the legal aid system, the Legal Aid (Amendment) Bill 2017 had sought to review how eligibility for aid was assessed. The assistance provided by the Legal Aid Department of Malaysia was offered on a non-discriminatory basis.

40. **Ms. Gabr** said that, although she welcomed the positive steps taken and promises of further action, certain concerns remained. As labour legislation contained no provisions on parental leave for fathers, further information on the issue of paternity leave would be welcome. It would also be useful to know why no action had been taken against parliamentarians who had reportedly made sexist remarks.

41. She noted that, in her own country, fatwas had no legal power and merely provided an assessment of a religious issue, such as following a specific dress code. With regard to the fatwa issued in 2009 on the issue of female genital mutilation, she stressed that many Muslim countries viewed the practice as incompatible with Islam and considered it a form of violence against women. She strongly encouraged the State party to re-examine the issue. Further information regarding dress code restrictions and their impact on the rights of women in public spaces would be helpful. In that context, were girls forced to wear specific attire to school?

42. On the issue of marriages between rapists and their victims, she could be grateful if the State party could clarify how cases were assessed and asked whether it viewed such marriages as a form of discrimination against victims of rape. She welcomed the recently amended legislation on domestic violence and asked about its impact on victims. In that

context, information on the availability of shelters for women victims of violence would be useful. Although the State party had suggested that rates of violence against women had fallen, the Committee had received alternative data indicating an increase in reported cases. She would welcome further clarification of that issue. Turning to the issue of criminal penalties, she wished to know whether whipping was still used as a form of punishment for Muslim women.

43. **Ms. Jahan** said that human trafficking in Malaysia, mainly as a country of destination and transit, continued to be a major concern despite the State party's efforts to combat it. Internal trafficking in women and girls from rural and indigenous communities was also on the rise. The absence of reliable disaggregated data made the scale of the various forms of trafficking in the country difficult to gauge, and the Committee urged the State party to gather such data. As a second anti-trafficking plan had now been introduced, she wished to know whether an evaluation of the implementation of the first plan had been made and, if so, what action had been taken in light of that evaluation. It would be helpful to hear whether the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants took a gender-based approach to its assessments of anti-trafficking policies and programmes and whether such programmes were adequately staffed and funded.

44. During her visit to the State party, the Special Rapporteur on trafficking in persons, especially women and children, had found coordination between government bodies at the federal and state levels to be lacking. Information on the steps taken to improve such coordination would be helpful. She wondered whether a formal mechanism to enhance collaboration between the Council and the national human rights institution, particularly in cases involving female victims, was in place.

45. The Committee was concerned that the Government's focus on curbing illegal immigration and deporting undocumented migrants hindered efforts to identify and assist victims of trafficking. It would therefore be useful to know what safeguards were in place to protect women victims of trafficking, particularly those who faced prosecution as illegal immigrants. Alternative sources had indicated that the majority victims of trafficking were undocumented migrant workers. She wondered what campaigns had been launched to raise awareness about human trafficking among refugee and migrant communities and whether targeted measures, such as telephone hotlines with multilingual staff, has been taken.

46. The rate of prosecution for trafficking offences did not reveal the extent of the problem. The low rate was mainly owing to the lack of capacity of law enforcement officials, compounded by corruption, impunity and a lack of expertise in dealing with trafficking issues on the part of the authorities. She would appreciate it if the delegation could comment on reports that mass graves of trafficked migrants and human trafficking camps had been found in the north of the country near the Malaysian border with Thailand. According to alternative sources, the traffickers and authorities alleged to have been complicit in the trafficking camps in question had not been prosecuted. She wished to know what was being done to ensure that those responsible would be brought to justice.

47. Prostitution was decriminalized, though managing brothels, soliciting and procuring were not. She asked what legal safeguards existed to ensure that women who worked as prostitutes would not face criminal charges. Extra vigilance was required given that women, and transgender women in particular, were often subjected to violence from clients and State actors. It had been reported that some entertainment establishments, such as bars and massage parlours, had hidden partitions where girls and women could be coerced into entertaining clients. She would welcome details of the action taken at the local level to regulate such establishments and to ensure that women were not forced into prostitution. She would appreciate information on any measures that had been introduced or that were being planned to reduce the demand for commercial sex and on the support that was available to women who no longer wished to be involved in prostitution.

48. **Ms. Ahmad** (Malaysia) said that there was no obligatory dress code for women in Malaysia with the exception of public schools, where female students were required to wear uniforms; women were free to dress how they pleased in public. At present, seven shelters for victims of domestic violence were open nationwide, and new shelters would be built in the future with assistance from NGOs.

49. **Mr. Bin Zainal Abidin** (Malaysia) said that the sharia courts could apply whipping as a punishment for criminal offences that carried such a penalty under sharia law. The procedure entailed a prior examination of the convicted person by a medical officer, and a maximum of six strokes could be applied to the torso with average force, ensuring that the person's skin was not cut. The sentence was not carried out on pregnant women until two months after childbirth.

50. **Ms. Ahmad** (Malaysia) said that the figures on the number of cases of violence against women were rising due to the increased awareness among women and thus a greater willingness to report such incidents, and not because of growing rates of violence.

51. **Ms. Abdul Wahab Zen** (Malaysia) said that a great deal of progress had been made in terms of combating human trafficking, including the enactment of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, which established the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants. The Act had been amended in 2010 to broaden the definition of labour trafficking and to cover the smuggling of migrants, and to boost the number of NGO representatives on the Council. As of 2015, NGOs were able to serve as protection officers and to run shelters for victims of trafficking. Further amendments to the Act were currently under consideration as part of the new national action plan on trafficking in persons for 2016–2020 to allow victims of trafficking to move freely in and out of shelters and to provide victims with a subsistence allowance during their time at the shelter. Section 25 of the Act provided for immunity from criminal prosecution for offences such as unlawful entry, residence or possession of fraudulent documents to persons recognized as victims of trafficking, while section 51 of the Act provided for the shelter, protection and rehabilitation of such victims. Teams had been set up in all states to combat human trafficking, with 29 Deputy Public Prosecutors specializing in that area, and work was under way to enhance coordination between those teams and the federal authorities.

52. Her Government strongly condemned the unprecedented crimes at the human trafficking camps in Wang Kelian. To date, four individuals had each been sentenced to 10 years in prison, and police had identified a further 19 suspects in Thailand, whose extradition had been requested and was pending. No evidence had yet been found that Malaysian officials were complicit in the events, though the investigation was ongoing.

53. **Mr. Bin Yeop Johari** (Malaysia) said that perpetrators of rape were subject to prosecution under section 375 of the Penal Code regardless of whether they married the victim, as was the case of Riduan Masmud, who had been sentenced to 12 years in prison for raping a 12-year-old girl whom he had later married. The validity of that marriage was currently being challenged in the sharia courts and the Committee would be notified of the outcome of the trial.

54. Each state had its own laws under the sharia law system. Any conflicts between sharia and civil law were decided by the civil law courts. The Fatwa Committee National Council of Islamic Religious Affairs was competent to rule on only unsettled or controversial issues relating to Islamic law. The delegation was unable to comment on the constitutionality of the Fatwa Committee's fatwa concerning Sisters in Islam, as the case was still before the federal courts.

55. In April 2009, the Fatwa Committee had decided that female circumcision was part of Islamic teachings and should be observed by Muslims except when the procedure was deemed harmful. In such cases, it should be avoided. The national fatwa was legally binding on the Muslim population only in states where fatwa committees at the state level had published the ruling in their official gazettes.

56. **Ms. Ahmad** (Malaysia) said that the issue of forced prostitution in entertainment establishments fell under the jurisdiction of the states. The Government would hold consultations with the state authorities and local councils to move forward in that respect.

57. **Ms. Gabr** said that female genital mutilation had been declared incompatible with Islam in many Muslim countries that had abolished the practice, and she hoped the State party would consider doing the same. As part of efforts to combat gender stereotyping, the Government of Malaysia had set up the Communications and Multimedia Content Forum.

She would welcome additional information on the Forum's functions. She also wished to know whether religious figures took part in events organized by the Forum.

58. **Ms. Jahan** said that, according to alternative sources, the procedure to obtain permission for trafficking victims to leave shelters was lengthy and cumbersome, and many victims remained in de facto detention. She wished to know what steps the State party had taken to simplify the procedure. She would welcome clarification as to whether victims of trafficking were granted residence or special work permits, regardless of their ability or willingness to cooperate with the authorities.

59. **Ms. Abdul Wahab Zen** (Malaysia) said that the process to apply for permission to leave shelters consisted of three separate risk assessment reports to ensure that victims were physically and mentally fit to do so. However, the Government was holding consultations with the relevant agencies and NGOs that run the shelters with a view to granting all victims the right to freedom of movement and to work, provided that they were not exposed to security risks. The Government was encouraging businesses to employ victims of trafficking as part of a social responsibility programme. There was currently no legal provision for awarding permanent residency to victims of trafficking; however, they were issued with work permits once they had found employment.

60. During her visit to Malaysia in February 2015, the Special Rapporteur on trafficking in persons, especially women and children had commended the State party's victim-oriented approach and recommended focusing on labour as well as sexual exploitation. To that end, a provision to ensure the payment of salaries to victims of trafficking had been included in an amendment to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act. As a result, the courts had recently ordered the payment of 140,000 Malaysian ringgit in back wages to three victims of labour exploitation.

61. A number of measures were aimed at reducing demand for commercial sex. For example, exploiting, procuring or soliciting other persons for the purposes of prostitution were offences punishable under the Penal Code. Concerted efforts were also being made, in conjunction with civil society, to prevent human trafficking for the purposes of sexual exploitation or prostitution. Among other measures, the Government was collaborating with NGOs to raise awareness of the issue among migrant workers, while the Ministry of Human Resources had organized seminars on the subject for employers and employees of the plantation industry. Additional measures were in the pipeline but required the full cooperation and support of all stakeholders. Further recommendations by the Committee on how the country could further improve its approach to combating trafficking would be welcome.

62. **Ms. Said** (Malaysia) said that, under a fatwa, it was obligatory for Muslim women and girls in Malaysia to undergo female circumcision. As a result, the Ministry of Health had issued guidelines on the procedure, which could be performed only by accredited medical professionals. Women and girls were later monitored by medical staff to identify whether any complications had occurred. Data collected by the Ministry of Health since 2015 had shown that around 85 per cent of Muslim girls in Malaysia had been circumcised by medical professionals, without suffering any complications. Indeed, a number of studies had reached similar conclusions: one had found that as many as 93 per cent of Malaysian Muslim women had undergone the medicalized procedure with no ill effects; another had reasoned that, in the absence of any reported clinical injuries, the practice of female circumcision performed in Malaysia was harmless. The procedure involved only the removal of the prepuce, or the skin around the clitoris, and had no impact upon the patient's sexual health, thus falling under the World Health Organization type 4 classification for such procedures. That was in stark contrast to the situation in other countries, where women often suffered serious complications and more invasive procedures. The practice of female circumcision in Malaysia could not be regarded, therefore, as female genital mutilation.

63. **Ms. Gabr** said that she remained wholly unconvinced by the State party's reasoning and pointed out that other Islamic countries, including member States of the Organization of Islamic Cooperation, had outlawed female genital mutilation. She urged the delegation to relay the Committee's concerns to the Government and encouraged the State party to consider the best practices of other Islamic countries with a view to implementing reforms.

64. **Ms. Schulz** said that women who turned to prostitution were often at risk of violence, extortion and abuse, including from police officers, a problem that was particularly acute in countries that had criminalized solicitation. She therefore wished to know what action the State party was taking to address those issues and ensure that women sex workers were protected.

65. **Ms. Ahmad** (Malaysia), replying to a question regarding the role of the Communications and Multimedia Content Forum of Malaysia in combating gender stereotypes in the media, said that, as the media's self-regulating body, the Forum monitored implementation of the Communications and Multimedia Content Code. Although gender-neutral language was used throughout the Code, it contained a number of specific provisions addressing negative gender stereotypes in advertising and promoting positive images of women.

66. **Mr. Bin Zainal Abidin** (Malaysia) said that measures of protection were indeed provided to victims who had been rescued from prostitution. Comprehensive legislation was also in place to punish law enforcement officials who abused victims.

67. **Ms. Manalo** said that she was deeply troubled by the delegation's responses regarding female genital mutilation. All forms of female genital mutilation, including the procedure that had been described, were a violation of the human rights of women and girls, in particular their right to health and physical integrity. She urged the State party to take steps towards outlawing that practice.

Articles 7 to 9

68. **Ms. Narain** said that she wished to know what reasons were underlying the persistently low percentage of women in parliament and why political parties continued to field so few women candidates. She wondered whether there were cultural or social obstacles to women's political participation and, if so, what was being done to remove them; whether training and other measures were provided to empower women to stand as candidates in national and local elections; and what specific measures were in place to enable and encourage women from marginalized groups, including indigenous women and women with disabilities, to stand for election. Regarding freedom of association, she wondered to what extent women were free to participate in NGOs and associations concerned with the public and political life of Malaysia and whether article 10 of the country's Constitution adequately guaranteed women's right to freedom of association in line with the Convention and other international instruments to which Malaysia was a party.

69. While welcoming the fact that women represented 47 per cent of the Malaysian Foreign Service, she wondered why just 5 per cent of women occupied senior and decision-making posts. She asked what could account for the gender disparity, whether ambassadors were promoted from career diplomats or appointed and how many women ambassadors there were. Lastly, she noted the relatively high number of Malaysian women who participated in the work of international organizations and would welcome comparative data on both women and men in those organizations and the positions they occupied.

70. **Ms. Ahmad** (Malaysia) said that a programme of activities had been devised for the current Empowerment of Women Year that envisaged various measures aimed at increasing women's political participation, including women from marginalized groups. Moreover, the Ministry of Women, Family and Community Development provided continuous training to encourage women's involvement at all levels of political life.

71. **Mr. Bin Zainal Abidin** (Malaysia) said that article 10 of the Malaysian Constitution provided for freedom of speech, assembly and association, subject to any necessary restrictions that might have been made by law for reasons of national security.

72. **Mr. Mohamed Zin** (Malaysia) said that his delegation would be pleased to provide the Committee with data on women in the Foreign Service in writing.

73. **Ms. Rana**, regarding article 9 of the Convention, said that several critical issues surrounding the issue of nationality remained to be addressed by the State party. In particular, she would urge the State party to consider withdrawing its reservation to article 9 (2) of the Convention, which concerned equality between women and men in conferring

nationality upon their children. She wished to know what specific action had been taken by the Government to ensure that Malaysian women and men could transmit their nationality to their children, including those born overseas or out of wedlock, on an equal basis. In a similar vein, she would be interested to know why Malaysian women did not have equal rights with men regarding the transmission of Malaysian nationality to a foreign spouse and what measures were being taken to ensure that foreign spouses of Malaysian nationals were treated equally when it came to granting social visit passes. For example, foreign women married to Malaysian men were accorded five-year permits, while foreign spouses of Malaysian women were issued with just one-year passes. According to alternative reports, many foreign women were forced to remain in abusive relationships in order to maintain their legal status in the State party. She asked what steps had been taken to ensure that foreign women married to Malaysian men were not economically and legally dependent on their spouses and what mechanisms were in place to enable those women to leave their husbands without losing their legal status.

74. Lastly, she was concerned at the lack of official data on the number of persons who were stateless or at risk of statelessness in Malaysia. She noted that the Government had pledged to address the issue and wondered what steps had been taken or were envisaged to improve data collection, including disaggregated data, and accelerate efforts to prevent and end statelessness in the country.

75. **Mr. Mohd Ramli** (Malaysia) said that children born to Malaysian men overseas automatically received Malaysian citizenship. The current process for Malaysian women to transmit their nationality to children born overseas was summarized in paragraph 70 of the periodic report and applied to children born after 1 January 2010. Applications relating to children born before that date should be submitted to the authorities in Malaysia, rather than to the relevant consulate overseas. Citizenship was not awarded automatically to foreign spouses of Malaysian nationals for reasons of national security. Citizenship could be conferred to foreign spouses of Malaysian men upon application. Foreign spouses of Malaysian women could apply to be naturalized.

76. **Ms. Halperin-Kaddari** said that she wished to know why civil law did not prevail over religious rulings, such as in the case of transmitting Malaysian nationality to a child. For example, although civil law stated that a child born to a Malaysian man automatically received Malaysian nationality, a fatwa — in which it was stated that a Muslim man was not able to register as the father of a child born within six months of his marriage to a foreign spouse — appeared to take precedence. However, a recent court ruling, involving the case of a father who had converted his three children to Islam without the consent of their non-Muslim mother, seemed to suggest that religious laws were not exempt from civil judicial review. In that light, she asked whether there was scope to challenge other fatwas in the civil courts.

77. **Mr. Bin Yeop Johari** (Malaysia) said it was true that the Federal Court of Malaysia had granted a judicial review in the case in question, having decided that the civil courts had jurisdiction in matters pertaining to the conversion of a minor. Another case, which centered on whether a Muslim father's surname could be given to a child born outside of marriage, was currently ongoing and thus no further comment could be made.

78. **Ms. Manalo** said she was concerned that there seemed to be a lack of clarity as to whether civil or religious law took precedence.

The meeting rose at 12.55 p.m.

United Nations CEDAW/C/SR.1573

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
26 February 2018

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Committee on the Elimination of Discrimination against Women
Sixty-ninth session

Summary record of the 1573rd meeting
Held at the Palais des Nations, Geneva, on Tuesday, 20 February 2018, at 3 p.m.

Chair: Ms. Leinarte

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Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Combined third to fifth periodic reports of Malaysia (continued)

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Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined third to fifth periodic reports of Malaysia (*continued*)
(CEDAW/C/MYS/3-5; CEDAW/C/MYS/Q/3-5 and CEDAW/C/MYS/Q/3-5/Add.1)

1. *At the invitation of the Chair, the delegation of Malaysia took places at the Committee table.*

Articles 10 to 14

2. **Ms. Gbedemah** said that she wished to know how the high levels of educational attainment among girls in the State party could be explained in the light of the relatively high number of girls who married. She asked how many married children returned to school and whether data were available on the educational attainment of girls who married below the age of 18 and girls who remained in education after becoming pregnant.

3. Noting that reproductive and sexual health education appeared to lack a rights-based perspective, which could be used to address child marriage and issues of power, responsibility and the prevention of pregnancy, she asked whether the Government had plans to incorporate such a perspective in reproductive and sexual health education. The Committee would welcome disaggregated data on the subjects that boys and girls opted to study. In view of the fact that girls were reportedly less likely to study technical subjects than boys, she asked what measures, including temporary special measures, were being taken to encourage girls to study such subjects.

4. Although women teachers were known to outnumber men teachers at the primary education level, it was not clear how many women primary school teachers moved into decision-making roles. The Committee was concerned that male head teachers outnumbered female head teachers at both the primary and secondary education levels. Noting that there were more male than female lecturers at the Institute of Teacher Education, she asked what disciplines those lecturers taught. Given that women tended to fare badly when a gender neutral policy was used to recruit staff to decision-making positions, she proposed that the Government consider implementing the measures set out in general recommendation No. 36 (2017) to increase the representation of women decision makers in the education system.

5. She asked what steps would be taken to ensure that schools were safe for all learners, including lesbian, bisexual, transgender and intersex girls, and whether it was government policy to punish school bullies by sending them to police and military institutions for training. Lastly, she would appreciate further information on the use of corporal punishment in schools, the education of migrant and refugee children and disparities in access to special education in urban and rural areas.

6. **Ms. Manalo** said that she wished to know what measures were being taken to narrow the gender wage gap and deal with the great disparity between men and women in the labour force participation rate. A large number of women had never entered the world of work because they shouldered most household responsibilities. She wondered what was being done to encourage more women to earn wages outside the home and men to share housekeeping and child-rearing duties.

7. The Committee wished to know why foreigners married to Malaysian nationals were not permitted to work and whether the laws and policies that prevented them from doing so would be amended. Noting that labour legislation covered neither Malaysian nor foreign domestic workers, she asked what plans were in place to ensure that domestic workers were not subjected to discrimination, what remedies were available to domestic workers who experienced abuse and violence and what policy changes were being considered to ensure that migrant domestic workers enjoyed the same employment rights as other migrant workers. Given that migrant workers who moved to Malaysia from the Philippines and other countries were required to renounce their citizenship but were not automatically granted Malaysian citizenship, she asked what precautions were being taken to prevent such

workers from being rendered stateless while they awaited the conclusion of the naturalization process.

8. Lastly, she wished to know what was being done to increase the number of women on the boards of companies.

9. **Ms. Verges** said that she wished to know how the shortage of medical staff, particularly in rural areas was being addressed. Noting that a relatively small number of Muslim couples underwent premarital screening for HIV/AIDS, she asked why the rate was so low and how many couples of other faiths underwent such screening. In view of the fact that the number of women who underwent pap smear screening had risen only slightly between 2012 and 2014, she asked what measures were being taken to ensure that the maximum number of women could undergo such screening. The Committee welcomed the fact that sexual and reproductive health education was taught at the primary and secondary levels in schools but wished to know whether the contents of the curricula for that subject were the same at the different levels of the education system. Noting that, according to the State party report, 57.5 per cent of married women had access to contraception, she asked what percentage of female adolescents, irrespective of their marital status, had access to it and whether there were more up-to-date statistics on access to contraception. Lastly, she asked whether reliable data on the number of children born to teenage mothers were available.

10. **Ms. Abdul Rahim** (Malaysia) said that, although pregnant teenagers and teenage mothers were allowed to continue their education in State schools, many girls opted to drop out as they feared being socially ostracized. In order to remedy that situation, the Ministry of Education, in collaboration with a number of other ministries, had made every effort to provide pregnant teenagers and teenage mothers with access to education, health care and social support services. To that end, guidelines had been drawn up to ensure that pregnant girls would benefit from a safe and protective environment at school.

11. Reproductive health and social education was one of the main components of the health education curriculum taught from the preschool to the secondary levels. Children were taught about aspects of personal and reproductive health to equip them with the knowledge and values that they needed to make informed choices in their social and sexual relationships. At the preschool level, children learned about the anatomical and physiological differences between boys and girls and how to distinguish between appropriate and inappropriate touching. Children were given brochures on sexual and reproductive health and encouraged to discuss their contents with their parents or guardians. The contents of the curricula on sexual and reproductive health varied in accordance with the age of the children concerned.

12. The percentage of girls who opted to study technical subjects at the upper secondary level had increased slightly from 2013 to 2017. At the upper secondary level, more girls than boys had opted to study science, technology, engineering and mathematics between 2013 and 2017. When they had completed their lower secondary education, both boys and girls could take technical or vocational courses at school, enter an apprenticeship programme or study at a vocational college.

13. Although there were more male than female head teachers at both the primary and secondary levels, the number of female head teachers was increasing. Women were encouraged to enter more senior teaching positions through the Excellent Teacher Pathway, under which teachers were promoted on the basis of their expertise in their subject areas. The Pathway enabled teachers to play more senior roles without having to leave teaching to become administrators or managers. The majority of the teachers who had benefited from the Pathway were women.

14. In accordance with the Safe Schools Declaration and Security Council resolution 2225 (2015) on children and armed conflict, the Ministry of Education had developed the safe school concept and a guide to its implementation for schools, communities and families. Schools were required to ensure that children were physically safe at all times. Although human rights was not currently taught as a subject in its own right, the history curriculum included components on human rights and international law. The subject of global citizenship, which would include components on human rights, was due to be added

to the school curriculum. In order to overcome regional disparities in access to education, the Ministry of Education had drawn up the District Transformation Programme, which formed part of the Malaysia Education Blueprint for the period 2013–2025. Under the Programme, district offices were required to shift their focus from administration to the provision of direct support to schools to enable them to improve more quickly. Specialist coaches in school improvement had been introduced to support teachers in schools, particularly those that were underperforming, and school improvement partners had been introduced to support head teachers. Emphasis was placed on the lowest performing schools, districts and states to accelerate improvement and narrow the attainment gap between schools in different parts of the country.

15. **Ms. Jawor** (Malaysia) said that foreign nationals married to Malaysian citizens were eligible to work in the country if they completed certain procedures. The Government intended to step up its outreach initiatives to raise awareness of the procedures concerned and would also request chambers of commerce to lend their support to outreach programmes on employment rights.

16. The Ministry of Human Resources and the International Labour Organization had developed guidelines for employers of migrant domestic workers. The Ministry was currently drafting guidelines on the recruitment of foreign domestic workers from all relevant source countries. The Employment Act (1955) would be amended with a view to increasing the protection afforded to migrant domestic workers.

17. **Mr. Mohd Ramli** (Malaysia) said that foreign nationals who wished to become citizens of Malaysia had to have resided in the country for a number of years and have the intention to do so permanently.

18. **Ms. Ahmad** (Malaysia) said that the Government had worked with the private sector to increase the representation of women on corporate boards. On their own initiative, private-sector organizations were preparing women to fill vacancies on governing boards. A number of private companies operating in Malaysia had won awards for their efforts to retain women and make optimal use of their talents.

19. **Ms. Said** (Malaysia) said that, according to figures from 31 December 2016, there were 36,403 doctors, 12,812 assistant medical officers and 65,227 nurses working in the public health sector. Most of the country's primary health clinics — 72 per cent — were located in rural areas. Similarly, 63 per cent of the country's publicly employed health-care providers worked in rural areas. In addition, incentive programmes had been set up to encourage doctors and paramedical personnel to practice in such areas.

20. Premarital HIV screening for Muslim couples had been introduced in one of the country's states in 2001. It had since been made available in the country's other states. In 2016, 0.03 per cent of those who had been tested as part of the premarital screening initiative had been found to be HIV positive. They were offered counselling, and women were advised of the need to have early antenatal check-ups. Antiretroviral therapy was provided free of charge. More generally, an average of 1.6 million HIV screenings a year had been conducted over the past five years.

21. A number of campaigns to raise awareness of breast and cervical cancer had been conducted, in particular to ensure that women knew how to examine themselves. The Ministry of Health set targets, requiring its health-care personnel to screen 40 per cent of a given target population for cervical cancer. It also provided its personnel with the training they needed — for example, on how to perform satisfactory pap smears — and worked in close collaboration with other public agencies and non-governmental organizations. Information on the availability of contraception to adolescents would be provided in writing at a later date.

22. **Ms. Gbedemah** said that, as she had noted earlier, she wished to know how many child brides and pregnant girls eventually returned to finish their schooling after having dropped out. She had also wished to know whether the State party was considering using temporary special measures to ensure that more girls opted for technical fields of study. In addition, she would appreciate it if the delegation could indicate what efforts the State party was making to ensure safe school environments for lesbian, bisexual, transgender and

intersex students and whether the military and the police had been enlisted in efforts to combat bullying in the schools. Information on the prevalence of corporal punishment in Malaysia would also be welcome.

23. **Ms. Ahmad** (Malaysia) said that she would have to obtain the relevant official information on the number of girls who had returned to school after having dropped out. Students who bullied their classmates were not punished by having to undergo military or police training.

24. **Ms. Manalo** asked what plans the State party had made to ensure that women could inherit insurance payouts or pension payments where they were named as beneficiaries. She also wished to know what reforms were being undertaken to ensure that inheritance laws did not discriminate against women. Similarly, she wondered whether the State party had plans to amend the Distribution Act 1958 with a view to granting Muslims the same inheritance rights as non-Muslims. What plans had been made to make inheritance laws more favourable to women, who, in many cases, became mothers and provided for their families?

25. **Ms. Song** Wenyan said that she welcomed the efforts made by the State party to promote the advancement of rural women. The initiatives that had been carried out to bridge the digital divide between rural and urban areas were particularly commendable. She nonetheless wished to know what the percentage of persons living in poverty in Malaysia was and what percentage of those persons were women. She would welcome additional information about women's access to and ownership of land. It would be interesting to know, for instance, whether rural women had the same rights to own land as men and whether women could be awarded a fair share of a couple's land as part of a divorce settlement.

26. She asked what mechanisms had been put in place to ensure that women were represented in decision-making in rural areas, especially in connection with projects and programmes that related to their lives and work. In addition, she wondered whether the members of the FELCRA Dynamic Women's Group (WADIRA) were encouraged to help women in need, so that more women could advance together.

27. Emphasizing the mother's role in nurturing children, as was done by the Department of Orang Asli Development (JAKOA), reinforced stereotypes and traditional gender roles. The father's role should be emphasized, too.

28. The delegation should indicate whether the Government intended to intensify its efforts to protect refugee and asylum-seeking women, who were in a particularly vulnerable position in the State party. An indication of the steps the State party planned to take to ensure the rights of lesbian, bisexual, transgender and intersex persons were respected would also be welcome.

29. **Ms. Ahmad** (Malaysia) said that land laws had been amended to allow the wives of smallholders who had been resettled by the Federal Land Development Authority to inherit land.

30. **Mr. Bin Yeop Johari** (Malaysia) said that the right to own property should not be equated to the right to inherit. There were no provisions disallowing a woman from owning property. In inheritance matters, a woman's share was one half of the man's share, in line with the divine revelation contained in the fourth chapter of the Qur'an.

31. The differing inheritance rights of men and women were consistent with their differing financial responsibilities. Under sharia law, men were obligated to support their wives, their children and in some cases their relatives. They inherited more to enable them to fulfil that obligation. A man was not relieved of his responsibility to support his wife by virtue of her wealth or her access to personal income from work or any other source. Women were not similarly burdened. In addition, a woman's property from before her marriage was not transferred to her husband. Women kept their family name at birth and were not obliged to use their property or income to maintain the family. In the event of divorce, they could receive alimony from their ex-husbands. The varying inheritance rights of men and women, based as they were on the responsibilities that fell on them under sharia law, were thus not a form of discrimination against women.

32. Under a marriage contract, a man was obliged to protect and provide for his family, as Allah had given men more strength than women, whereas a woman owed allegiance to her husband and was required to protect herself in his absence. The differing rights and responsibilities of men and women was not based on the idea that men were superior to women. In specific cases, furthermore, women could inherit shares equal to or greater than those of men.

33. **Ms. Manalo** said that discrimination against women in inheritance matters was evidently ongoing in the State party. There had been positive developments in Muslim family law in such countries as Afghanistan, Kuwait, South Africa and Turkey. She wondered why the State party seemed to find it impossible to move away from Islamic rules on inheritance, especially when, as was often the case in modern Malaysia, women provided for and protected their families.

34. **Ms. Ahmad** (Malaysia) said that in Malaysia people living on less than 960 ringgit a month were considered to be living under the poverty line. Women accounted for around 60 per cent of those people.

35. **Ms. Zamani** (Malaysia) said that women accounted for some 11 per cent of the chairs or secretaries of the country's village development and security committees. Guidelines for the establishment and operations of those committees stated that women and young people should account for at least 30 per cent of committee members. Some 13 per cent of the participants in a recent village leadership course were women. It was hoped that more and more women would attend the course, which would also be offered in 2018.

36. The members of the WADIRA Group encouraged other women to participate in income-generating activities. Women were also encouraged to participate in economic life through other local programmes. Fathers, as a Committee member had noted, should indeed play a role in nurturing their children.

37. **Ms. Ahmad** (Malaysia) said that refugees and asylum seekers were entitled to protection on an equal footing with Malaysian nationals. Lesbian, bisexual, transgender and intersex persons were also entitled to equal protection.

38. **Ms. Schulz**, commending the State party's efforts to welcome refugees and asylum seekers, said that she nonetheless wondered whether it was considering becoming a party to the Convention relating to the Status of Refugees and adopting a national policy on refugees. In the same connection, she wondered how the authorities ensured that the principle of non-refoulement was observed and that asylum seekers had full access to asylum procedures.

39. **Ms. Ahmad** (Malaysia) said that the subject of how to deal with the arrival of refugees had been a topic of public debate in Malaysia. The Government was working closely with the Office of the United Nations High Commissioner for Refugees (UNHCR) on refugee policy, and discussions on that topic were ongoing.

40. **Mr. Mohamed Zin** (Malaysia) said that, although Malaysia was not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, a UNHCR office had been maintained in Kuala Lumpur since 1975. The country had provided assistance to Vietnamese boat people in the 1970s and had later welcomed other groups, including Bosnians in the 1990s. There were currently over 150,000 persons of concern to UNHCR from 60 countries in Malaysia, and they had benefited from various ad hoc programmes. The Government was currently working with the UNHCR office to develop more systematic assistance programmes for them.

41. **Mr. Bin Zainal Abidin** (Malaysia) said that the principle of non-refoulement was upheld by the provisions of the Extradition Act and the Mutual Assistance in Criminal Matters Act. If it was established that returning a person to another State would result in persecution, the person was not returned to that State.

42. **Ms. Haidar** said that she had the feeling that the State party had regressed in its implementation of the Convention in respect of many questions, including polygamy, child marriage, citizenship, unilateral religious conversion and freedom of religion and belief.

43. The concluding observations issued by the Committee in 2006 had called for the authorities to address problems stemming from the existence of multiple versions of sharia law, but they had not done so. The Committee had also called for the State party, in implementing its dual legal system, to give precedence to those provisions of law that afforded women greater rights, but the reform of Islamic law had not done that at all. The State party was apparently maintaining its reservation to article 16 (1) (a) (c) (f) and (g), and, despite its lifting of its reservation to article 16 (2), there was no indication of progress in that field in practical terms. Such a situation cast doubt on the authorities' political will to implement the Convention.

44. The law governing polygamous marriage no longer took into account the effect that such marriages would have on the standard of living of an existing wife or wives. It no longer stipulated that polygamous marriages could be entered into for just and necessary reasons only, requiring instead that the marriage should be deemed either just or necessary and leaving it for a judge to decide whether such criteria were met. Failure to register marriages was punishable by no more than a small fine, which had no dissuasive effect. Such provisions reflected a lack of commitment to the progressive changes that the Committee had called for in 2006.

45. Because of the country's multi-ethnic and multireligious composition, the lack of progress could cause tension between communities, as some groups had to live under more stringent rules than others. Did the authorities want to engage in an inclusive and comprehensive dialogue with a view to reforming the law so that it would reflect the basic principles of justice and equality that were fundamental to Islam? It was difficult to reconcile the State party's sponsorship of resolutions advocating moderation, for instance before the General Assembly, with policies prohibiting free choice of religion and belief, as the conversion of Muslims to other faiths was not allowed in Malaysia, to cite an example.

46. In practice, child marriage reportedly continued to be practised in both the Muslim and non-Muslim communities. The delegation might describe what had been done to enforce prohibitions against child marriage and provide statistics on changes in practices since 2006. The Committee welcomed the recent court judgment declaring that the consent of both parents was required for the conversion of children to Islam, but it was concerned about the possibility that its primacy over sharia law had been called into question. It was also concerned about distinctions between the registration of Muslims and non-Muslims and about the situation of Malaysian mothers who gave birth to their children in other countries. They reportedly still faced more complicated procedures than fathers for the registration of their children's Malaysian nationality.

47. **Mr. Bin Yeop Johari** (Malaysia) said that questions relating to polygamous marriage, child marriage and marital property were all regulated by Islamic family law, which fell under the purview of the states. The federal authorities were not permitted to encroach upon states' rights once the states adopted such laws. Nonetheless, the Government of Malaysia and the states had taken a number of progressive measures since 2006, for example by putting in place safeguards to ensure that the implementation of sharia law would not be prejudicial to women. The Government had in 2006 established four special working committees under the purview of the Department of Islamic Development to study and review various sharia laws, including those related to criminal, court and civil procedures. Once the special committees' work was done, their findings would be issued for consideration by the national and state authorities.

48. **Ms. Ahmad** (Malaysia) said that statistics on child marriage would be submitted later, in writing.

49. **Ms. Haidar** said that the position of the State party apparently reflected a failure to respect its international treaty obligations with sufficient seriousness. The Committee had raised the points under discussion in 2006, and the delegation was now claiming that the special working committees, which had been in existence for 12 years, would produce results sometime in the future. Would it take another 12 years for action to be taken? Muslim countries, including Saudi Arabia, had recently repealed laws and regulations that had previously been justified under the label of sharia, and some, such as Morocco, Tunisia and Indonesia, had carried out legal reforms and addressed the application of Islamic sharia

in an effective manner. The State party should consider initiating a dialogue with civil society and engage those committed to positive change to find a progressive solution to the implementation of Islamic law in Malaysia.

50. **Ms. Halperin-Kaddari**, noting that an increasing number of women had the knowledge level required to be appointed as judges, said that she would like to know whether any women had been appointed as judges in the sharia courts and, if not, whether there were plans to do so in the future. The Committee had noted in general recommendation No. 29 (2013) that the maintenance of multiple legal systems was discriminatory against women, unless there was the possibility of choosing the application or observance of particular laws. Was it true that, in Malaysia, a person's religion at birth determined the legal system to which he or she was subject and that there was no possibility of opting out of sharia law, for example? It was not clear whether, under civil law, Muslim children born out of wedlock would now be allowed to be registered with the National Registration Department under their father's name as a matter of course or whether the relevant fatwa prohibiting such children from bearing their father's name would prevail. The Committee would like to know more about the matrimonial property regime applicable to non-Muslims. Were wives entitled to half the property accumulated during marriage, and was mediation used in cases of divorce? If so, what safeguards were in place to ensure that women who had suffered domestic abuse were not compelled to enter into mediation with their abusive spouses?

51. **Ms. Gbedemah** said that she would like further information on the policy of sending school bullies for training to the police or the armed forces as part of the National Blue Ocean Strategy. Since 2013, over 5,000 students had been involved in such activities. The Committee would be interested to find out what offences they had been accused of, how many of the students were girls and how they were subsequently integrated into schools. It was a source of concern that bullies were sent for military training. In her view, that was likely to hone their skills for still worse behaviour.

52. **Ms. Schulz** said that, in its general recommendation No. 33 (2015), the Committee had recognized that plural legal systems existed, but it had also stated that States parties must not hide behind their existence to allow violations of the Convention to take place. Notwithstanding any reservations filed by Malaysia, the Committee considered that States parties were responsible, and it held them accountable for implementation of the Convention, irrespective of their domestic legal framework.

53. **Ms. Manalo** said that she was very saddened to see that Malaysia had not taken steps to implement the Convention and that there had been so little progress and so much regression in the 12 years since its delegation had last appeared before the Committee, under her chairmanship, in 2006. The situation had already been bad then, but it had become even worse. The delegation's invocation of sharia law to justify the State party's non-compliance with its treaty obligations, in addition to being contrary to the 1969 Vienna Convention on the Law of Treaties, did nothing to secure the rights of women in Malaysia. The State party had obviously failed to implement provisions to ensure women's rights across the board: it had neither incorporated appropriate provisions in its Constitution, laws and legal system, nor had it established institutions to protect women against discrimination, nor had it eliminated discriminatory practices.

54. **Ms. Haidar** said that, notwithstanding past delays and failures, there was still a chance to do something constructive. The State party must show a political will to comply with its international obligations. In that vein, it would be most helpful to the Committee if it explicitly stated its commitment to change things for the better and set out concrete time frames for action. Timelines could be gradual, but a dialogue with all the state authorities and with civil society organizations must begin right away.

55. **Ms. Rana** said that she supported Ms. Haidar's remarks. The Committee's major concern centred around the State party's interpretation of how to apply sharia law. It looked forward to receiving a written response expressing the strong political will of the State party to meet its international obligations.

56. **Ms. Gabr** said that, as a woman from a Muslim country, she considered that the problem did not lie in sharia law itself but in a specific interpretation of the law. She

expressed dismay at the affirmation that sharia law was the cause of situations that degraded women. The State party, as a member of the Organization of Islamic Cooperation, should consider how other Muslim countries interpreted sharia law in ways more conducive to observance of women's rights.

57. **Ms. Ahmad** said that information on the treatment of bullies would be forwarded to the Committee as soon as possible. She assured the Committee that it was neither the intention nor the will of the authorities to regress, and that they would continue to have contacts with agencies and non-governmental organizations to move ahead in the implementation of women's rights. The delegation, upon returning to Kuala Lumpur, would seek to secure an expression of commitment from the relevant government agencies and ministries and would respond in writing to as many of the Committee's queries as possible within a few days.

The meeting rose at 4.50 p.m.

United Nations CEDAW/C/SR.1574

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
26 February 2018

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Committee on the Elimination of Discrimination against Women
Sixty-ninth session

Summary record of the 1574th meeting
Held at the Palais des Nations, Geneva, on Wednesday, 21 February 2018, at 10 a.m.

Chair: Ms. Leinarte

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Consideration of reports submitted by States parties under article 18 of the Convention

Seventh periodic report of Chile

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Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention

Seventh periodic report of Chile (CEDAW/C/CHL/7; CEDAW/C/CHL/Q/7; and CEDAW/C/CHL/Q/7/Add.1)

1. *At the invitation of the Chair, the delegation of Chile took places at the Committee table.*

2. **Ms. Pascual Grau** (Chile), introducing her country's seventh periodic report and providing an overview of institutional developments in the field of women's rights and gender equality, said that major advances had included the establishment of the Ministry for Women and Gender Equity, the reform of the National Service for Women and Gender Equity and the creation of the Council of Ministers for Gender Equality, responsible for promoting gender mainstreaming across all ministries and government services and providing the relevant technical assistance.

3. Institutional measures implemented within the judiciary had included a plan of action to incorporate a gender perspective into its activities and the development of a gender equality and non-discrimination policy, approved by the Supreme Court in 2018. The Technical Secretariat for Gender Equality and Non-Discrimination, established by the Supreme Court in 2016, was responsible for implementing and monitoring that policy. In 2017, the Public Prosecution Service had established a centre for monitoring gender-based violence and a specialized unit on human rights, gender-based violence and sexual offences had been created within the Attorney General's Office, as part of efforts to incorporate a gender perspective throughout the criminal justice system.

4. New tools for the promotion of gender equality included the 2018–2030 National Gender Equality Plan and the country's first National Human Rights Plan, launched in 2017. A broad range of stakeholders had been consulted during preparation of the two plans, both of which were aligned with the Sustainable Development Goals.

5. To increase women's participation in political and public life, electoral reform measures had introduced a gender parity criterion for candidate lists, as well as economic incentives for the election of women candidates, targeted funding measures and the earmarking of a percentage of political parties' State funding for activities to promote women's political participation.

6. To enhance protection for women's physical integrity and autonomy, legislation had recently been adopted that decriminalized abortion in certain specific circumstances and defined the related procedures, protocols and support measures.

7. As part of efforts to combat violence against women, a bill on women's right to a life free of violence was currently being examined by parliament. The bill had been drafted following consultations with a range of stakeholders, taking into account the recommendations of the Committee, the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and other international instruments. Another important step had been the approval of new legislation on domestic violence that established the new offence of "serious physical ill-treatment", in order to enhance the protection afforded to vulnerable groups, including children, adolescents and persons with disabilities. The new provisions also removed the requirement for preliminary charges to be brought before the family courts. Moreover, a new law defining the criminal offences of torture and other cruel, human or degrading treatment or punishment had been introduced, which recognized sexual violence as an act of torture.

8. In education, progress had included reforms to promote inclusion and strengthen public education services, for example, by giving students the opportunity to access higher education free of charge — a provision that would have a significant impact on the lives of women and girls.

9. **Ms. Krauss** (Chile), highlighting the Government's commitment to promoting women's leadership and participation, said that, since measures to foster women's

appointment to the boards of public companies had yielded significant results, an extension of those measures to the private sector was envisaged. A public-private gender parity initiative had also been created, with support from the World Economic Forum and the Inter-American Development Bank, and, to date, more than 100 companies had joined. In addition, new legislation on labour relations had been designed to increase women's participation in collective bargaining and trade union activities and thus strengthen their negotiating role.

10. Women's participation in the labour market had increased, but challenges remained, including a persistent gender pay gap. However, while the legislation on equal pay introduced in 2009 had not fully achieved its aims, it had provided a basis for identifying additional potential measures for reducing gender-based wage inequality. A recent raft of labour reforms had introduced tools to identify wage gaps within the framework of collective bargaining negotiations and a pilot project to ensure gender-neutral evaluation of civil service posts had been launched in 2016 with a view to achieving equal pay for civil servants. Measures had also been taken to promote shared responsibility and guarantee work-life balance; specific legislative steps to reconcile work with family responsibilities had included measures to support parents of children with serious and/or permanent illnesses or disabilities, including the right to leave of absence and care allowances.

11. In order to provide better protection to domestic workers, new legislation on their working conditions had been introduced, in compliance with the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).

12. **Ms. Narváez Ojeda** (Chile), providing an overview of measures to support vulnerable groups, including indigenous women, migrant women, and lesbian, bisexual and transgender women, said that legislation had been introduced to recognize civil unions, including same-sex partnerships, and that the 2017 bill on equal marriage proposed amending the terminology used in the Civil Code so that it covered same-sex couples and parents. A bill aimed at recognizing and protecting the right to gender identity was also currently before parliament.

13. Consultations had been held with indigenous peoples on a number of issues, including the establishment of the Ministry of Indigenous Peoples and plans to enshrine indigenous rights in the new Constitution, in line with international human rights standards. A significant number of women had participated. A further achievement in terms of indigenous participation was the election to Congress, in 2017, of a woman from an indigenous community.

14. The Government had begun the process of accession to the Convention relating to the Status of Stateless Persons. Efforts to combat statelessness had also included measures to resolve the situation of children of foreign nationals classed as temporarily present in the country ("non-resident aliens") and the "Chile Reconoce" (Chile recognizes you) programme, launched within the framework of the "I Belong" campaign of the Office of the United Nations High Commissioner for Refugees.

15. **Ms. Pascual Grau** (Chile) said that the Government sought to build a better country for all, particularly for women. It would continue its efforts to accelerate progress and to meet its obligations under the Convention in order to achieve substantive equality between men and women.

Articles 1 to 6

16. **Ms. Schulz** said that she would be interested to know the time table for finalizing the ratification of the Optional Protocol to the Convention, and also the outcome of consultations with civil society and academics regarding amendments to the Anti-Discrimination Act of 2012, including, in particular, the Government's position on: the impact of the law's focus on a judicial mechanism; plans to move from a purely judicial model towards a comprehensive law covering all forms of discrimination; the impact of amendments on redress for victims of discrimination, notably through the civil law system; whether fines for unfounded allegations deterred women from filing discrimination claims and the extent to which those penalties were applied by the courts; criteria relating to the

burden of proof and time limits for filing claims; the inclusion in the law of different forms of discrimination; and the use of temporary special measures and affirmative action.

17. In view of reports that the rights of lesbian, bisexual and transgender women were not sufficiently protected under existing legislation, she invited the delegation to clarify the situation and indicate the measures taken or planned to raise awareness of violations and enhance the competence of the judiciary and other State authorities to respond to them. Transgender women, in particular, had stressed the need for speedy adoption of the bill on gender identity, in order to simplify procedures for changing names and gender markers. She asked the State party to comment on the status of that bill.

18. On the issue of indigenous women, she wished to know the time frame for adopting the bill to establish the Ministry of Indigenous Affairs and implementing the planned reforms, including the formulation of comprehensive legislation on the rights of indigenous peoples that incorporated a gender perspective. Similarly, she would like to know the time frame for implementing planned reforms to the Constitution.

19. In view of worrying reports regarding the situation of women human rights defenders, and particularly indigenous women fighting for land rights, that referred to threats and attacks by State and non-State actors, she wished to know what measures were being taken to avoid the abusive application of counter-terrorism legislation and other repressive measures to oppose the land claims of indigenous populations. She would be interested to know what steps were being taken to enter into a broad, democratic dialogue with those communities and negotiate solutions that respected the status of indigenous peoples in the democratic order and complied with the principles of the Declaration on Human Rights Defenders, taking into account the specific situation of women.

20. **Ms. Pascual Grau** (Chile) said that the bill to ratify the Optional Protocol to the Convention was currently in its second reading in parliament. Following some resistance, in part linked to the regulation of involuntary termination of pregnancy, it was hoped that a national dialogue with civil society and other stakeholders could be initiated under the newly elected Government and that the bill's passage into law could thus be accelerated.

21. **Ms. Narváez Ojeda** (Chile) said that the draft amendments to the Anti-Discrimination Act had not yet been passed but that the enactment of the amendments constituted one of the objectives of the National Human Rights Plan for 2018–2021. The Office of the Minister and Secretary General of Government had held extensive consultations in that connection in 2017 and 2018 and had also canvassed the opinions of citizens, particularly those most affected by gender-based discrimination. Within the framework of the "amicable settlement" concluded between the State and the Movement for Homosexual Integration and Liberation, meetings had been held with various civil society organizations to discuss the shortcomings of the Act and potential improvements. The main proposals for improvements included: creating a system to prevent, punish, eliminate and repair damage to the dignity of persons; establishing a national register of persons convicted of offences motivated by discrimination; incorporating new rules on reparations for victims; and taking action to promote and raise awareness of the law, placing the emphasis on prevention.

22. **Ms. Fries Monleón** (Chile) said that, pending the enactment of specific legislation on gender identity, a chapter of the National Human Rights Plans had been devoted to measures to ensure respect for sexual diversity and de facto and de jure equality for members of the LGBTI community and other vulnerable groups. The Government was also promoting a bill to amend counter-terrorism legislation that contravened international human rights standards.

23. **Ms. Muñoz Sánchez** (Chile) said that the provisions of the Anti-Discrimination Act were not the only protective mechanism available; other remedies of protection had been used on several recent occasions to resolve complaints from transgender women deprived of their liberty. In two such cases, the courts had affirmed the prisons' obligation to treat the transgender women concerned in accordance with their gender identity. Furthermore, although no specific gender identity law was currently in force, civil law made provision for transgender persons to change their names.

24. **Ms. Narváez Ojeda** (Chile) said that the bill recognizing gender identity was currently in its third reading before the Senate.

25. **Ms. Díaz Martínez** (Chile) said that 46 consultation procedures had been conducted in 2014 pursuant to the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), most notably in relation to the establishment of the Ministry of Indigenous Peoples and the Council of Indigenous Peoples. The bill establishing the Council had been debated in January 2018, and the Senate would deliver its opinions on the bill creating the Ministry in March 2018. Protection for indigenous peoples' right to land and water resources was currently afforded under Act No. 19.253 of 1993, but the new legislation, together with the planned constitutional amendments, would, once enacted, extend the breadth and depth of indigenous peoples' legally protected rights. Issues that were currently the subject of prior consultations included the political participation and constitutional recognition of indigenous groups, their right to free determination and self-government and respect for their political and social institutions, their culture and their economic systems.

26. **Mr. Álvarez Alarcón** (Chile) said that the criminal prosecution of women land rights defenders, and women human rights defenders in general, was the exception rather than the rule. The case of Francisca Lincolao was especially serious, as she had been implicated in a fire that had caused the death of two people. The defendants had initially been acquitted by an independent court but a retrial was to take place in light of new evidence. The suspects had been placed under house arrest between the hours of 8 p.m. and 8 a.m., which was the most lenient form of pretrial detention. He knew of only two similar cases. One was currently under investigation; in the other, a land rights case, the provisions of counter-terrorism law had not been invoked at any time.

27. **Ms. Schulz** said that the creation of the Technical Secretariat for Gender Equality and Non-Discrimination was a commendable advance but more information on the Secretariat's human, financial and technical resources and its powers to effect change was needed, given that action currently being taken to guarantee equal access to justice and protection against gender stereotyping remained either insufficient or insufficiently timely. The Committee's general recommendation No. 3 could provide useful guidance for addressing that situation.

28. **Ms. Acosta Vargas** asked whether the Secretariat would have the power to supervise judicial activity and safeguard the rights of women defendants.

29. **Ms. Muñoz Sánchez** (Chile) said that the Secretariat was a small strategic body that worked in conjunction with other judicial institutions. It was staffed by a data expert, a legal secretary, a legal coordinator, a sociologist and a communications expert and had been allocated State funding of 60 million Chilean pesos. Funding had also been secured from external sources, including from the European Union Eurosocial cooperation programme.

30. A gender-based approach to access to justice constituted one of the strategic areas of the gender equality and non-discrimination policy approved by the Supreme Court in February 2018. That approach meant providing training to judges to ensure that they recognized women's rights as human rights. In 2016 a compulsory training course on gender-related issues in justice had been introduced for all new judges, and similar courses were offered as part of the ongoing training programme.

31. **Ms. Sepúlveda Sánchez** (Chile) said that the Public Prosecution Service was committed to incorporating the gender perspective in criminal investigations and its internal regulations. To bolster its limited resources, the Service had forged partnerships with international bodies such as the Eurosocial Project and with academic institutions.

32. **Mr. Cabezas Chamorro** (Chile) said that the Legal Aid Agency, which was a decentralized public body, provided free legal defence services for persons unable to afford a private defence counsel.

33. **Ms. Schulz**, noting that free legal aid tended to be provided by less experienced lawyers, asked what system, if any, was in place to ensure the quality and continuity of State-funded legal services.

34. **Mr. Cabezas Chamorro** (Chile) said that the Legal Aid Agency was run by fully qualified lawyers although it also employed some recent law graduates. The Agency provided a high-quality service but he acknowledged the need to improve monitoring mechanisms.

35. **Ms. Bethel** said that the State party had made commendable progress, notably in establishing the Ministry of Women and the various mechanisms for monitoring compliance with the National Gender Equality Plan. However, she would like more information about how the Ministry planned to implement the fourth Gender Equality Plan; whether a calendar and roadmap for implementation were in place; and what indicators had been established to monitor progress. With budget issues being clearly a major concern, she would also like to know what percentage of the national budget the Ministry received. She wondered whether there was an effective process for consulting with civil society regarding the advancement of women's human rights, and invited the delegation to provide examples of specific programmes that addressed those rights, including details of programme deliverables. An overview of the Ministry's main achievements to date and the challenges it faced would also be helpful.

36. Although the Committee had called for enhanced coordination and the full inclusion of all disadvantaged women in the design and implementation of public policies and programmes in its 2012 concluding observations (CEDAW/C/CHL/CO/5-6, para. 13), alternative sources indicated that such policies continued to exclude transgender women. She would thus appreciate clarification as to the Ministry's position regarding the inclusion of all women, including members of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community, in its initiatives.

37. In its replies to the list of issues (CEDAW/C/CHL/Q/7/Add.1, paras. 34 and 35), the State party had indicated that the Office of the Undersecretary for Human Rights included a gender perspective in its work and programmes and had referred, as an example initiative, to a seminar on the principles of equality and non-discrimination, with an emphasis on sexual orientation and gender identity, that had been organized for justice officials in 2016. She would like to know how the officials involved had responded to that seminar in practice and whether any qualitative differences in their approach to the principles had since been noted.

38. **Ms. Ameline** said that she would appreciate an explanation as to how the State party would ensure systematic implementation of the special temporary measures provided for under Chilean law, given that the law covered such a wide range of issues, including the rights of indigenous women, domestic violence and women's access to positions of responsibility. Was a structured, integrated approach envisaged? She was concerned that, despite increases in women's active participation, not enough women were moving up into decision-making roles. She wished to know what particular temporary measures the State party might take to address that issue.

39. **Ms. Pascual Grau** (Chile) said that the law establishing the Ministry for Women and Gender Equity had established the principle of respect for diversity in Chilean law for the first time and that the Ministry's policies were developed within a multicultural framework that took the interests of indigenous women into account. The combined budget of the National Service for Women and Gender Equity and the Ministry for Women and Gender Equity was 52 billion Chilean pesos.

40. A more programmatic approach had been taken to the implementation of the latest National Gender Equality Plan, which covered the period 2018–2030, and incorporated the gender equality and sustainable development commitments made by various government ministries. As far as coordination with National Congress was concerned, the Ministry had held a series of discussions with parliamentarians to move bills forward and promote a more cross-cutting approach between government ministries, departments and agencies. The latter was particularly important following the introduction of the new electoral system, which had replaced the binominal system created by Augusto Pinochet and aimed to promote greater diversity. Consultations were held with civil society whenever a new bill was presented to parliament to ensure that their views were taken into account. Moreover,

all government ministries and public services were required to set up advisory civil society councils to ensure cooperation with civil society.

41. **Ms. Fries Monleón** (Chile) said that the Office of the Undersecretary for Human Rights, established in January 2017, had incorporated a gender perspective into all its programmes and activities and gender parity had been achieved throughout the Office; in fact, women occupied some 70 per cent of its management roles.

42. The seminar on equality and non-discrimination organized by the Office of the Undersecretary for Justice in 2016 had not only served to raise awareness of gender issues but had also provided an opportunity to update Ministry of Justice protocols to take account of the gender perspective. A Ministry of Justice website was being launched in March 2018 so as to provide public officials with continuous training on human rights and on gender and intercultural perspectives.

43. Other mechanisms in place to implement the Committee's recommendations included the 2018–2021 National Human Rights Plan. The gender perspective had been incorporated into all areas of the National Human Rights Plan, but 64 actions were aimed specifically at women. A mechanism to monitor implementation of the Plan comprised members of the civil society councils and representatives of organizations registered with the National Human Rights Institute. The Office of the United Nations High Commissioner for Human Rights also had observer status.

44. **Ms. Narváez Ojeda** (Chile), replying to Ms. Bethel's question regarding the inclusion of sexual minorities, said that the Office of the Minister and Secretary General of Government had introduced measures to ensure that public and administrative policies took account of the challenges faced by transgender persons, in particular in areas such as health, employment and education. Progress had also been made towards the adoption of a bill on gender identity. A social media campaign and microsite had been launched to educate the public not only about the bill but also about issues relating to gender identity in general.

45. In April 2017, the Ministry of Education had issued a circular, drafted in consultation with NGOs, on the rights of transgender children in education. Similarly, the Ministry of Health had issued a circular on the provision of health care to transgender and intersex persons, which had established a requirement for public health service providers to use a transgender person's chosen, rather than legal, name. Efforts were now being taken to ensure that the circular was implemented across the board. Lastly, the Ministry of Labour and Social Security had established a working group, comprising representatives of the Ministry and of the civil service, on the inclusion of sexual minorities in the labour market.

46. **Ms. Pascual Grau** (Chile), replying to Ms. Bethel's question regarding the Ministry of Women's particular achievements, said that, in her view, the adoption of the law decriminalizing voluntary terminations or pregnancy was the single most important accomplishment for women's human rights in recent times in Chile, in particular because it had been a long and challenging process. The interministerial and collaborative approach adopted during the drafting of the bill to combat violence against women and safeguard women's right to a life free of violence had also been an important achievement, since the process had not only involved almost all government ministries but also representatives of civil society, the Public Prosecution Service, the Public Criminal Defender Service and United Nations organizations with offices in Chile.

47. **Ms. Walker Echenique** (Chile) said that a number of temporary special measures had been introduced following recent labour reforms, including a one-third gender quota for boards of directors of trade unions. Regarding transgender women in the labour market, the civil service had pledged to include a field in application forms to allow transgender persons to apply with their chosen, rather than legal, name. As things stood, applications by transgender persons could be rejected because their legal and chosen names did not match.

48. **Ms. Halperin-Kaddari** said that, despite the impressive example set by the outgoing president, Ms. Bachelet, stereotypes and macho culture were still pervasive in Chile. She wished to know what measures were being taken to sensitize law enforcement officials and the judiciary to those issues. She wondered what action had been taken to improve the collection of disaggregated data on criminal offences, such as data

disaggregated by type of complaint and rates of indictment, conviction and sentencing, and what had been done to improve the identification and recording of cases of femicide.

49. Referring to paragraph 26 of the State party's report, she asked whether the State party had drafted new legislation dealing with violence against women in all its forms and whether the planned amendments to Act No. 20.066 on Domestic Violence had been made. Noting that, according to alternative reports, family courts could only refer cases of domestic violence to the criminal courts if there was a history of abuse, she asked how the two parts of the judicial system — the civil and criminal courts — handled cases of domestic violence and exchanged information; what civil and criminal recourse victims had against their aggressors; what re-education programmes were available for men convicted of violence against women; and whether such programmes were voluntary or used as an alternative to imprisonment. She would also welcome an update on the current status of plans to make sexual harassment in the public sphere an offence and further information on the reference made in the opening statement to recognition of sexual violence as a form of torture. Lastly, she invited the delegation to comment on reports that complaints of sexual exploitation of girls in children's homes run by the National Service for Minors had not been investigated.

50. **Ms. Bethel** said that, despite sustained efforts to prosecute persons involved in human trafficking and to assist trafficking victims, Chile remained a source, transit and destination country for the trafficking of women and girls for sexual or labour exploitation. She wished to know what measures were being taken to reduce the demand for commercial sex and forced labour; ensure that persons convicted of trafficking received dissuasive sentences commensurate with the gravity of the offence; provide trafficking victims wishing to seek redress with access to legal representation; and encourage the judiciary to order damages on behalf of victims. Regarding services for victims of trafficking, she wondered what steps had been taken to improve access outside the country's capital to specialized centres for women and girl victims; increase the availability of health-care and rehabilitation services for victims; and ensure that appropriate mechanisms were in place to reintegrate victims and reunite them with their families. She asked whether law enforcement officials had any guidelines on how to screen potential trafficking victims in police or protective custody in order to prevent them from being prosecuted for offences they had been forced to commit. Lastly, she would be interested to know whether the State party had considered tracing and confiscating assets derived from trafficking in persons as an additional means of deterrence.

51. **Ms. Pascual Grau** (Chile) said that efforts to combat violence against women included campaigns to break down gender stereotypes, which were often used as justification for such violence; encourage women and men to choose non-traditional career paths; raise awareness of domestic violence and femicide; and promote new perceptions of masculinity.

52. **Ms. Muñoz Sánchez** (Chile) said that, in the judiciary, a policy to combat sexual harassment and challenge gender stereotypes had been introduced and a related information campaign had been launched. Among other activities, an online portal had been established to provide information on how to recognize sexual harassment and brochures had been distributed in all courts. The campaign, which had also been disseminated over social networks, had proved so effective that it was now to be used in other administrative areas.

53. **Ms. Vega Vallejos** (Chile) added that the Ministry of Education had likewise carried out a number of campaigns, including through a civic training plan, to address stereotypes, combat violence against women and promote gender equality.

54. **Ms. Pascual Grau** (Chile) said that Act No. 20.066 on Domestic Violence had been amended to incorporate the offence of physical ill-treatment so as to better protect vulnerable groups, such as children and adolescents, older persons and persons with disabilities. In addition to increasing penalties for habitual domestic violence, the amendment also removed the requirement for family courts to establish the existence of a consistent pattern of abuse before a case could be referred to the criminal courts. The bill on women's right to a life free of violence also contained amendments to the Act on Domestic Violence, broadening the concept of domestic violence so that it was no longer restricted to married or cohabiting partners. Among other aspects, the bill also set out the various forms

of violence against women — such as physical, psychological, sexual and economic violence and sexual harassment — that took place in both the public and private spheres. Lastly, steps were being taken to broaden the definition of femicide contained in the Criminal Code to include non-cohabiting partners.

55. **Ms. Sepúlveda Sánchez** (Chile) said that the National System on Femicide had been set up to facilitate and coordinate intersectoral cooperation and to prevent femicide. Its achievements had included the creation of a risk-assessment protocol aimed at identifying whether a victim of violence was at risk of femicide. Where such risk was deemed to exist, preventive measures were initiated. A unit within the Public Prosecution Service monitored the incidence of femicide and had a database of all such cases that had occurred since the offence had been expressly criminalized in 2010.

56. **Ms. Pascual Grau** (Chile) said that a database of cases of violence against women had been created in 2017 and was in the process of being made accessible to the public. It currently contained data collected from the Public Prosecution Service and other ministries and police data would hopefully be added in the near future.

57. There were 15 centres around the country for re-educating men who had resorted to violence against women. Aggressors were enrolled either voluntarily or by order of the courts. The bill on women's right to a life free of violence contained a proposal to allow an aggressor to enrol in a re-education programme as an alternative to prosecution; however, efforts to ensure the sufficient guarantees of compliance would be needed to support such an approach.

58. **Ms. Fries Monleón** (Chile) said that the definition of torture adopted in the new legislation, which was in line with the standards established in the Inter-American Convention to Prevent and Punish Torture and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, encompassed physical, psychological and sexual violence. Following the new law's adoption, public officials who had committed acts of torture against women, children or adolescents could be tried in a criminal court as opposed to a military court.

59. The President had acknowledged that, for many years, Chile had failed to protect children and adolescents from abuse in State-run residential homes. For that reason, major structural reforms had been announced to improve the protection regime. A bill establishing a system of guarantees for the rights of children had been tabled, and separate bills establishing the Office of the Undersecretary for Children and the Office of the Defender of the Rights of Children had been adopted.

60. **Mr. Álvarez Alarcón** (Chile) said that, since 2014, measures had been taken to ensure that all public officials likely to encounter cases of trafficking in their work had been trained to monitor and collect data on the phenomenon. For example, under the national capacity-building plan, the Aliens and Migration Department of the Ministry of the Interior and Public Security had conducted intercultural awareness-raising activities specifically for public officials who worked with migrants; since 2014, the Public Prosecution Service had conducted workshops on the gender dimension of trafficking and sexual exploitation for 92 of its officials; and the Intersectoral Panel on Trafficking in Persons had supported a seminar on human rights, gender and intercultural awareness.

61. Government agencies had standing to join criminal proceedings as an additional complainant in certain exceptional circumstances and the Government had taken the position that the Ministry of the Interior and Public Security was authorized to exercise that right in trafficking-related cases. Only 14 convictions had been secured in the 33 cases formalized to date but the adoption of measures to improve the interpretation of relevant laws should make it possible to secure a larger number of convictions in the future.

62. **Ms. Pascual Grau** (Chile) said that Chile had only one dedicated shelter for women victims of trafficking for the purposes of sexual exploitation or forced labour. The shelter was operated by an NGO under the authority of the Ministry for Women and Gender Equity. It was acknowledged that additional funding for women's shelters was needed. The Ministry for Women and Gender Equity worked in coordination with the inter-institutional system in place to ensure that appropriate services were available to victims.

63. **Ms. Halperin-Kaddari** said that it was unclear whether the various legislative initiatives mentioned by the delegation, such as, for example, the initiative concerning economic violence and the initiative concerning the redefinition of femicide, had already been adopted. With regard to domestic violence, she wished to know whether the pre-qualification previously required to refer a case to the criminal courts had been eliminated for all cases. Lastly, she would appreciate data on prosecutions for the offence of torture, as recently redefined.

64. **Ms. Bethel** said that she would appreciate a response to her earlier question on the guidelines issued to enable law enforcement officials to screen for victims of trafficking. In view of the lucrative nature of the crime of trafficking in persons and the need to strengthen the deterrent effect of the penalties imposed on convicted perpetrators, she wondered whether the Government had considered the possibility of prosecuting traffickers under anti-money-laundering legislation. The Argentinian authorities had recently begun to move in that direction.

65. **Ms. Acosta Vargas** asked whether a man who had killed a woman with whom he had never been in a partner relationship could be prosecuted for the offence of femicide.

66. **Ms. Pascual Grau** (Chile) said that the amendment to Act No. 20.066 on Domestic Violence eliminating pre-qualification had already been adopted. The bill on women's right to a life free of violence (Bulletin No. 11.077-07), which provided, inter alia, for amendments to Act No. 20.066 to incorporate the concept of economic violence and redefine the offence of femicide to include murders committed in the context of partner relationships, had not yet been adopted. She was unable to provide data on prosecutions for the offence of torture, as recently redefined to include sexual violence.

67. **Mr. Álvarez Alarcón** (Chile) said that most of the cases of trafficking in persons that had come to trial had involved small organizations, and there had been insufficient evidence in those cases to expand the investigations to encompass money-laundering. In coordination with the Public Prosecution Service, the general policy that had been adopted was to refrain from prosecuting victims of trafficking under criminal law, even in cases in which the victims had been involved in illegal activity. No complaints had been received regarding that policy.

68. **Ms. Sepúlveda Sánchez** (Chile) said that the murder by a man of a woman with whom he had never been in a partner relationship or to whom he had never been married did not qualify as femicide, as defined in article 390 of the Criminal Code. In certain cases, such as those in which a man had murdered the mother of his child, the act would constitute a murder committed in a domestic violence context under Act No. 20.066. Those distinctions notwithstanding, the Public Prosecution Service sought to prosecute all murders of women to the fullest possible extent of the law.

69. **Ms. Pascual Grau** (Chile) said that the bill on women's right to a life free of violence included a proposal to amend the definition of femicide in the Criminal Code. However, even if that bill were adopted, the definition would remain limited to murders committed in the context of partner relationships. She recognized that the legislative situation remained a challenge. The possibility of introducing further amendments to the definition of femicide set out in the Criminal Code was under discussion. It could be expanded further to include, for example, murders committed in the context of a same-sex partner relationship.

Articles 7 to 9

70. **Ms. Ameline** said that the State party should maintain its efforts to increase the political representation of women. In that connection, she wished to know whether any evaluation of the responsibilities of women in parliament had been conducted; the establishment of a dedicated parliamentary commission would make it possible to ensure that women held positions of responsibility in all sectors. She would also be interested to know how civil society's role might be extended beyond the purely consultative.

71. Significant results had been achieved in terms of increasing the representation of women in the civil service, in particular in the diplomatic service. Nevertheless, it was important to monitor human resources management and training to ensure that women continued to feel prepared to accept such positions. In the private sector, a policy of

professional equality was needed to ensure that women and men were equally represented in decision-making positions. What were the State party's priorities in that regard?

72. It was encouraging to hear that women, including women from minority groups, had begun to play a greater role in the democratic process, but it was important that they also became direct actors in that process. It was unclear what measures had been planned to improve the political participation of women at the local level, where the results achieved in recent years had been less impressive. On a more general point, she wondered how the political sphere could be consolidated with a view to further improving the position of women.

73. **Ms. Schulz** said that she wished to commend the State party for having taken steps to ensure that the children of non-resident aliens received Chilean nationality through the rectification of their birth certificates and for having ratified the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. She encouraged the State party to maintain its efforts to protect the children of non-resident aliens and stateless persons.

74. **Ms. Pascual Grau** (Chile) said that the President had been in favour of the adoption of a law stipulating that women should hold at least 40 per cent of seats in parliament. The law that had ultimately been adopted (Act No. 20.840) stipulated that neither men nor women should account for more than 60 per cent of the total number of candidates declared by a political party and that women should account for at least 40 per cent of candidates. The elections held in November 2017 had been the first to fall under the new quota system. Once the appropriate bodies had finalized their evaluations of the impact of the new system during those elections, the possibility of adopting further legislation aimed at increasing the number of women elected to the parliament could be considered. Political parties were still adapting to the new requirements.

75. Under the new system of political financing, at least 10 per cent of the total State funding allocated to a political party would have to be spent on fostering women's participation in politics. The National Service for Women and Gender Equity worked to promote the political, social and cultural participation of women. It organized leadership training schools for women and training workshops on the exercise of citizenship rights at the local level. Moreover, political participation was covered in the citizenship training that had recently been introduced in schools.

76. **Ms. Maurás** (Chile) said that, in recent years, the Andrés Bello Academy for Diplomats had taken measures to increase the number of women among its students. For example, it had made efforts to encourage women to apply for admission to the competition for entry to the foreign service. In addition, the list of university degrees accepted for admission to the competition for entry to the diplomatic service had been expanded, and candidates who had been awarded a university degree in subjects such as social work or languages, which tended to be "female" subjects, could now be admitted to the competition. In the period 2014–2017, 30 of the 59 candidates selected to enter the Academy had been women. The proportion of the country's ambassadors who were women had increased from 2.2 per cent in 2004 to 15.2 per cent in 2018.

77. **Ms. Pascual Grau** (Chile) said that a bill had been tabled to establish that neither men nor women could account for more than 60 per cent of the directors of a public company.

78. **Mr. Álvarez Alarcón** (Chile) said that the competent authorities worked in coordination with one another to ensure that the children of non-resident aliens received Chilean nationality. Every year, around 2,000 such children received Chilean nationality through the rectification of their birth certificates. In July 2017, the "Chile Te Recibe" (Chile welcomes you) programme had been launched to replace the original "Chile Reconoce" (Chile recognizes you) programme and ensure that, in terms of migration, no child in Chile was left in an irregular situation. As at 8 January 2018, the situation of some 20,000 children and adolescents had been regularized.

The meeting rose at 1 p.m.